

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SEP - 9 2005

UNITED STATES OF AMERICA for the use §
and benefit of SIEMENS BUILDING §
TECHNOLOGIES, INC. §
§
V. §
§
GROT, INC., ET AL. §

DAVID J. MALAND, CLERK
BY
DEPUTY _____

CASE NO. 4:05CV77
(Judge Brown/Judge Bush)

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Came on for consideration the Report of the United States Magistrate Judge in this action, this matter having been heretofore referred to United States Magistrate Judge Don D. Bush pursuant to 28 U.S.C. § 636. On August 19, 2005, the Report of the Magistrate Judge was entered containing his proposed findings of fact and recommendations that: (1) Plaintiff's Partial Motion to Dismiss Grot, Inc.'s ("Grot") Counterclaims be granted; (2) Grot's counterclaim for Violation of the Duty of Good Faith and Fair Dealing be dismissed with prejudice; (3) Grot's Motion for Leave to File Amended Counterclaim be granted; and (4) Grot's amended counterclaims for negligent misrepresentation and material misrepresentation be dismissed with prejudice.

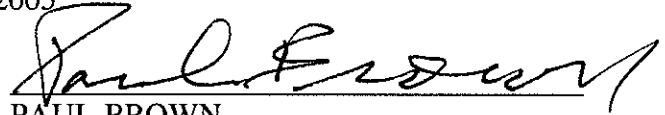
Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, this Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the same as the findings and conclusions of the Court. It is, therefore,

ORDERED, ADJUDGED and DECREED that Plaintiff's Partial Motion to Dismiss Grot's Counterclaims is **GRANTED** and Grot's counterclaim for Violation of the Duty of Good Faith and Fair Dealing and amended counterclaims for Negligent Misrepresentation and Material Misrepresentation

are **DISMISSED WITH PREJUDICE**. It is further

ORDERED that Grot's Motion for Leave to File Amended Counterclaim is **GRANTED** and Grot's First Amended Counterclaim shall be the live pleading in this case except to the extent disposed of by this order.

SIGNED this 9th day of September, 2005

A handwritten signature in black ink, appearing to read "Paul Brown", written over a horizontal line.

PAUL BROWN
UNITED STATES DISTRICT JUDGE